

1 and then subsequently, the most efficient
2 method to distribute these was to have them
3 scanned in, because if we have them scanned
4 in, they can add the Bates stamp as part of
5 the process.

6 JUDGE SIPPEL: Exactly.

7 MR. KELLER: But I think that is
8 going to cost at least \$6,000, possibly more.

9 JUDGE SIPPEL: And what would it
10 cost to Bates stamp those documents?

11 MR. KELLER: I don't even know.

12 MS. KANE: To hand Bates stamp
13 them, Your Honor?

14 MR. KELLER: To hand Bates stamp
15 them? It would take days probably. I mean,
16 I don't know.

17 MS. KANE: I don't know if it
18 would take that long. It would take somebody
19 with stickers putting the stickers on,
20 probably for a couple of days to get them
21 done.

22 JUDGE SIPPEL: Do you just go

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1 bang, bang, bang.

2 MS. KANE: We don't do that
3 anymore, Your Honor. It is very sad.

4 JUDGE SIPPEL: All right. You
5 figure what it is going to be, but somehow
6 that has to be resolved. I share counsel's
7 concern for having things that are not at
8 least Bates stamped before other lawyers
9 trying getting it into the act.

10 The first thing to do is find out
11 where they are located, whether there are
12 facilities down there and, Mr. Havens, what
13 the cost is going to be. I don't know what to
14 say. You got to figure out how you are going
15 to pay for these things.

16 MR. HAVENS: Well, that goes to my
17 question, whether it is my obligation to pay
18 for something.

19 JUDGE SIPPEL: No, it is not your
20 obligation. You offered to consider it.

21 MR. HAVENS: Okay, I will.

22 JUDGE SIPPEL: And I say thank

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1 you. That is all I am saying.

2 MR. HAVENS: All right.

3 MR. KELLER: Your Honor, it is certainly
4 not his obligation to pay for everybody to
5 have copies, but I think what he might have
6 been driving at -- and if not, I want to make
7 clear. Somebody who wants to come in and
8 inspect these documents, if they want to copy
9 them, they are going to have to pay to have
10 them copied.

11 One of the things we were
12 considering, and I don't know that this is an
13 option, because one of the things we
14 originally talked to the copy center about,
15 and they were willing to take a certain amount
16 of risk on this, was to go ahead and scan them
17 in and then divvy up the cost between people
18 who wanted copies of the documents; and I
19 suggested to them, well, that is fine, but the
20 trouble is I only think that there is probably
21 only two parties that might want copies of the
22 documents, the Bureau and SkyTel. So you are

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1 only dividing it two ways. So I don't know --
2 Would your firm be wanting copies of them?

3 MR. PLACHE: Of the WRV 374,

4 MR. KELLER: Oh, just of those?
5 See, that's it. So it is possible also, we
6 could have them scanned, and then there might
7 be a smaller fraction of that \$6,000 that
8 would have to be paid to get a copy of the
9 CDs.

10 MR. RICHARDS: Would the creditors
11 committee pay to scan them?

12 MR. KELLER: Well, we have raised
13 that issue, but -- oh, of the creditors
14 committee? I don't know that the creditors
15 committee -- they did finance the -- We have
16 approached them about that, but we are
17 fighting month to month just to get the
18 financing to not pay salaries. So I don't
19 know if we are going to get them to foot the
20 bill for that.

21 MR. RICHARDS: It just seems
22 something relevant to preserving the value.

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1 MR. KELLER: No, I understand. I
2 agree. I agree. So we are going to pursue
3 all these, and I will keep in touch with the
4 Bureau on it.

5 JUDGE SIPPEL: This gets more and
6 more interesting. You think it may take two
7 days? Let me say --

8 MS. KANE: I have no idea, Your
9 Honor. I haven't seen the documents. I don't
10 know whether they are the type of document you
11 can quickly flip through, and a paralegal
12 could quickly put the list on, or whether they
13 are different sizes.

14 Having been through all of those
15 stages in my career, I can't give you a sense.
16 It could take a couple of days. It could take
17 a week to do them by hand, but the reality is,
18 the most efficient and most effective way is
19 for them to be scanned and for them to be
20 Bates stamped at the time and, frankly, for
21 Mr. Keller's client to pay for that. That is
22 the most effective way for this to be done to

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1 ensure that multiple parties are working from
2 the same set of documents.

3 JUDGE SIPPEL: That would normally
4 be the case, but the fact that he is in
5 bankruptcy, and he has raised the issue -- he
6 has made it clear that this is not just
7 opening up a cash drawer and paying for it.

8 I will tell you, I didn't know
9 that this conference was going to be paid for
10 until yesterday. So money is really, really
11 pretty skimpy around here.

12 MR. KELLER: Excuse me, Your
13 Honor, if I could. Ms. Kane, I want to follow
14 up. If I am understanding you, putting the
15 stickers on by hand assumes that the copies of
16 the documents are then going to be copied.
17 Right?

18 MS. KANE: No, it just assumes
19 that at least that is the same set of
20 documents that everybody is looking at, and
21 you now have at least three different sets of
22 people who want to look at these documents.

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1 You have Mr. Havens and Mr. Havens' counsel.
2 You have Pinnacle Wireless's counsel who may
3 want to look at these documents, and certainly
4 in the Enforcement Bureau.

5 MR. KELLER: What I am getting at,
6 if it is just a stickie, what is to control
7 that those stickies don't get misplaced or
8 pulled off?

9 MS. KANE: Well, they are very
10 difficult to pull off. That is number one,
11 and number two, at least it allows those
12 documents, if they do get out of order, to be
13 put back into numerical order.

14 MR. KELLER: Back in sequential
15 number. Okay, so it is not just a thing that
16 can be easily removed?

17 MS. KANE: Well, as I am sure you
18 know, for evidentiary purposes they need to be
19 kept in either the --

20 MR. KELLER: I understand that.

21 MS. KANE: -- and so if they get
22 out of order, that is a problem.

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1 MR. KELLER: No, I understand. I
2 was just trying to understand the nature of
3 these stickers, because I thought the whole
4 point of the sticker would then be to copy
5 them, and if you are going to do it, I would
6 agree, the most efficient way is to go ahead
7 and scan them and do the numbering at the
8 time.

9 JUDGE SIPPEL: I never thought we
10 would be bogged down on stickers here.

11 MS. KANE: I think at this point,
12 Your Honor, if Mr. Keller could provide us
13 with an identification, which he has to have
14 at this point, having gotten an estimate of
15 how many pages we are dealing with, not how
16 many boxes, but how many pages, I think
17 between the three law firms we could probably
18 figure out some mechanism to get these copied.
19 We could work amongst ourselves to get copies
20 of them.

21 MR. KELLER: That is fine.

22 JUDGE SIPPEL: Let me know. Let

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1 me have a status report. Well, let me have a
2 status report in 10 days, and you are going to
3 have an order for me, a proposal anyway, this
4 afternoon or tomorrow morning. Correct?

5 MS. KANE: Your Honor, would you
6 like that to be sent to everybody at the same
7 time or just to you?

8 JUDGE SIPPEL: No, I think just to
9 me and to Mr. Keller, because he is the one
10 who is going to be interested in it. Just a
11 question of what I promised to do with respect
12 to your discovery that it doesn't seem to be
13 much of a contest about right now -- right
14 now.

15 MR. HAVENS: Could my counsel be
16 included?

17 JUDGE SIPPEL: When we find him.

18 MR. HAVENS: I meant current
19 counsel.

20 JUDGE SIPPEL: Well, you have Mr.
21 Liberman. It is between you and Mr. Liberman
22 as to whether he wants to see it. I don't

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1 know what he is going to do with it when he
2 sees it, but that is up to you and Mr.
3 Liberman.

4 MR. HAVENS: So is Drinker Biddle
5 at this time out of the hearing?

6 JUDGE SIPPEL: Say that again.

7 MR. HAVENS: Is the Drinker Biddle
8 law firm --

9 JUDGE SIPPEL: They are still here
10 for the limited purposes that I spelled out in
11 the order yesterday that you have a copy of.

12 MR. HAVENS: That is why I was
13 asking. For something like this, will copies
14 of these draft orders and other documents go
15 to Drinker Biddle or will they go to me, or
16 both?

17 JUDGE SIPPEL: Hold on just a
18 minute on that one, Mr. Havens. That was a
19 joint motion. Is that right?

20 MS. KANE: It was, Your Honor.

21 JUDGE SIPPEL: It involved the
22 SkyTel as well as -- Yes, we will send you a

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1 copy, and it is between you and Drinker as to
2 whether or not they want a copy. I am not
3 going to -- Well, anyway, because I don't want
4 you -- Well, I am not going to say anything
5 more about that, but just keep looking to get
6 a lawyer, please. That is all I can really
7 say. Mr. Liberman, do you have anything you
8 wanted to add to that?

9 MR. LIBERMAN: It is fine with us
10 if the documents are sent directly to Mr.
11 Havens.

12 JUDGE SIPPEL: There you go, and
13 when you get the mystery attorney, let us know
14 who he is, or she or they, and we are going to
15 keep you informed, Mr. Havens. Don't worry.

16 MR. HAVENS: I am sorry. I didn't
17 hear you.

18 JUDGE SIPPEL: I say we will keep
19 you informed.

20 MR. HAVENS: Thank you.

21 JUDGE SIPPEL: Yes, sir. Anything
22 else?

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1 MS. KANE: Your Honor, I think we
2 are still waiting on figuring out a discovery
3 deadline for Issue G.

4 JUDGE SIPPEL: I am going to ask
5 for proposed dates on that.

6 MS. KANE: We have proposed a
7 date, Your Honor, which is 120 days from -- I
8 guess it would be from today, because that was
9 the first time it was we have an option of
10 getting discovery from Maritime, which would
11 provide ample time for us to review.

12 It sounds like we are probably
13 dealing with at least 12 boxes of documents,
14 which is time consuming to review, and then we
15 have got potential documents from Pinnacle
16 Wireless and information from Pinnacle
17 Wireless, depositions we need to proceed with.

18 So we had asked for 120 days. I
19 know Mr. Keller had objected to that.
20 Maritime had objected to that and asked for
21 30, which we think is preposterous, given the
22 amount of information that he has already told

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1 this court actually exists.

2 JUDGE SIPPEL: That is four
3 months.

4 MS. KANE: I understand, Your
5 Honor, but our rules require at least 21 days
6 notice for depositions, and at this point we
7 don't even have the discovery from Maritime or
8 from Pinnacle Wireless. So Maritime said that
9 they are going to give us this information
10 within 10 days, but then we are going to have
11 to look at multiple boxes of documents,
12 etcetera.

13 JUDGE SIPPEL: No, I've got the
14 feel here for it. Mr. Havens, do you have any
15 objection to 120 days?

16 MR. HAVENS: Your Honor, I think
17 it is too short, but I don't -- Given my
18 experience in the delays I am feeling, and its
19 predecessors have done for years and years
20 before the Bureau, and the fact the -- It is
21 not hard to produce these documents.

22 JUDGE SIPPEL: No, this is more

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1 than just producing the documents. It is then
2 where do you go from the documents.

3 MR. HAVENS: I have been in quite
4 a few cases, Your Honor.

5 JUDGE SIPPEL: That is not this
6 case. I am not talking about those cases. I
7 am talking about this case.

8 MR. HAVENS: In this case, I am
9 familiar with these stations around the
10 country. We have substantial records
11 ourselves from getting copies from the Bureau
12 years ago. We have done some surveys. We
13 have some experts.

14 I think -- don't hold me to it
15 exactly, but I think there is something like
16 40 stations around the country, and we have in
17 the past gone to some of these stations where
18 the station owners have told us, and sometimes
19 in personal visits where we have sent experts,
20 that there is no station, where the equipment
21 was here, and they plugged the plug on it, or
22 please tell them to come get this box that

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1 doesn't work.

2 I think, without some physical
3 inspections of some of these sites and
4 deposing or voluntary interviews with the site
5 managers and so forth that we won't get to the
6 bottom of this.

7 JUDGE SIPPEL: You have just used
8 up 120 days just by explaining that.

9 I am going to give 120 days to the
10 Bureau, and we will take it from there, 120
11 days from -- We will start the count tomorrow,
12 the day after. That's it.

13 MS. KANE: Thank you, Your Honor.

14 JUDGE SIPPEL: Now does anybody
15 else have anything more?

16 MR. RICHARDS: Your Honor, do you
17 want a proposed order from us on granting our
18 waiver?

19 JUDGE SIPPEL: Why don't you give
20 it to me?

21 MR. RICHARDS: I will do that.

22 JUDGE SIPPEL: You, too, Mr.

1 Richards.

2 MR. RICHARDS: Do you want
3 separate orders or we could roll that into one
4 order?

5 JUDGE SIPPEL: No, no, no, no.
6 Don't roll. Separate orders. Separate
7 orders, please.

8 Thank you very much. I'm sorry,
9 Mr. Miller, you have something?

10 MR. MILLER: Just to say thank
11 you, Your Honor.

12 JUDGE SIPPEL: For what?

13 MR. MILLER: For letting us do
14 this by telephone.

15 JUDGE SIPPEL: Thank you very
16 much. You have cooperated very well.

17 We are in recess until my next
18 call. Thank you very much.

19 (Whereupon, the foregoing matter
20 went off the record at 11:38 a.m.)

21

22

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Name of Hearing

EB DOCKET NO. 11-71

Docket No. (if applicable)

445 12th STREET, S.W., WASHINGTON, D.C.

Place of Hearing

January 25, 2012

Date of Hearing

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Tracy Cain

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Legible Name and Signature of Proofreader

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